

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD ROGEL, Individually and as
Trustee of the Richard H. Rogel Revocable
Living Trust

CIVIL CASE NO. 06-10183

Plaintiff,

HONORABLE PAUL V. GADOLA
U.S. DISTRICT JUDGE

v.

MAX DUBRINSKY, Individually and as
Trustee of the Max Dubrinsky Living Trust,
et al.,

Defendants.

_____ /

ORDER ACCEPTING REPORT AND RECOMMENDATION

Now before the Court are Defendant's motion for summary judgment [docket entry #4], Plaintiff's motion for summary judgment [docket entry #6], and Magistrate Judge R. Steven Whalen's September 5, 2006 report and recommendation regarding these motions. The magistrate judge's report and recommendation recommended that this Court grant Plaintiff's motion for summary judgment and Defendant's motion for summary judgment be denied. The Magistrate Judge also notified the parties that any objections must be filed within ten days of service. No party has filed objections to the report and recommendations.

The Court's standard of review for a magistrate judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions,

under a de novo or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Because neither party filed timely objections to Magistrate Judge Capel’s report and recommendation, *see* 28 U.S.C. § 636(B)(1)(c); Fed. R. Civ. P. 6(e), this Court need not conduct a review.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket entry 11] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Plaintiff’s motion for summary judgment [docket entry 6] is **GRANTED**.

IT IS FURTHER ORDERED that Defendant’s motion for summary judgment [docket entry 4] is **DENIED**.

SO ORDERED.

Dated: September 22, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on September 22, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

R. Christopher Cataldo; Sheila c. Cummings; Barry M. Rosenbaum; Carl H. von Ende, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: _____.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
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